

Message Text

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ACTION DLOS-09

INFO OCT-01 IO-14 ISO-00 OIC-02 ACDA-12 AGRE-00 AID-05

CEA-01 CEQ-01 CG-00 CIAE-00 COME-00 DODE-00

DOTE-00 EB-08 EPA-04 SOE-02 DOE-15 FMC-02 TRSE-00

H-02 INR-10 INT-05 JUSE-00 L-03 NSAE-00 NSC-05

NSF-02 OES-09 OMB-01 PA-02 PM-05 SP-02 SS-15

ICA-20 AF-10 ARA-15 EA-12 EUR-12 NEA-10 /216 W

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 3272

INFO USDEL LOS COLLECTIVE

UNCLAS SECTION 01 OF 02 USUN NEW YORK 03517

FROM LOSDEL

E.O. 11652 N/A

TAGS: PLOS

SUBJECT: LOS CONFERENCE WEEKLY SUMMARY - AUGUST 28 -
SEPTEMBER 1

SUMMARY: ANNEX II WAS THE TOPIC OF DISCUSSION IN NG-1.
IN NG-2, NO CONSENSUS WAS REACHED ON ACCOUNTING PRO-
CEDURES TO BE USED BY CONTRACTORS OPTING FOR THE
ROYALTY-PLUS-PROFIT-SHARING MODE OF PAYMENT. NG-6
COMPLETED CONSIDERATION OF THE DEFINITION OF THE OUTER
LIMIT OF THE CONTINENTAL MARGIN AND REVENUE SHARING.
IN NG-7, THE DEBATE ON COMPULSORY SETTLEMENT OF MARITIME
BOUNDARY DISPUTES WAS SUSPENDED PENDING COMPLETION OF
A SECRETARIAT STUDY OF SUCH DISPUTES SINCE 1945.
COMMITTEE III TOOK AN IMPORTANT STEP FORWARD WITH
THE ISSUANCE OF A WORKING PAPER WHICH EMERGED FROM THE
SMALL NEGOTIATING GROUP LISTING THE POLLUTION AMENDMENTS
NOW INFORMALLY ADVANCED AS THE BASIS FOR A POSSIBLE
CONSENSUS. END SUMMARY.

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1. NG-1 MET FOUR TIMES TO CONSIDER THE CONTENT AND
IMPLICATIONS OF THE FIRST FOUR PARAGRAPHS OF
ANNEX II. THESE SECTIONS ATTEMPT TO SET OUT, RESPECTIVE-
LY, THE TITLE TO MINERALS AND PROCESSED SUBSTANCES,
PROSPECTING, DETAILS FOR EXPLORATION AND EXPLOITATION,
AND QUALIFICATIONS OF APPLICANTS. THE PRESENT ICNT

TEXT CONTAINS A NUMBER OF AMBIGUOUS ELEMENTS WHICH BECAME "CONTROVERSIAL" AS BOTH G-77 AND DEVELOPED COUNTRY REPS OFFERED THEIR INTERPRETATIONS. MUCH MORE WORK REMAINS TO BE DONE ON ANNEX II.

2. MOST OF THE DEBATE IN NG-2 THIS WEEK CONCERNED ACCOUNTING PROCEDURES TO BE USED BY CONTRACTORS OPTING FOR THE ROYALTY-PLUS-PROFIT-SHARING MODE OF PAYMENT. SEVERAL MEMBERS OF THE G-77 ADVOCATED PROCEDURES WHICH WERE BOTH UNPRECEDENTED AND ONEROUS; WHEREAS, THE US AND OTHER DEVELOPING COUNTRIES SUPPORTED GENERALLY ACCEPTED ACCOUNTING PROCEDURES. NO CONSENSUS WAS REACHED AND CHAIRMAN KOH ANNOUNCED THAT DURING THE WEEK OF SEPTEMBER 4-8, THE GROUP WILL ATTEMPT TO FILL IN THE BLANK SPACES OF HIS GENEVA TEXT.

3. DURING AUGUST 28 - SEPTEMBER 1, COMMITTEE II MET INFORMALLY AND THROUGH ITS NEGOTIATING GROUPS 6 AND 7 (NG-6, NG-7).

4. NG-6 COMPLETED DISCUSSION OF A DEFINITION OF THE OUTER LIMIT OF THE CONTINENTAL MARGIN AND REVENUE SHARING. THE COMMITTEE REMAINED SPLIT INTO THREE GROUPS: THOSE SUPPORTING THE ARAB PROPOSAL THAT COASTAL STATE JURISDICTION BE CUT OFF AT 200 MILES; THOSE SUPPORTING THE SOVIET PROPOSAL TO LIMIT COASTAL

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STATE CLAIMS TO A MAXIMUM OF 100 MILES BEYOND THE ECONOMIC ZONE; AND THOSE SUPPORTING THE IRISH FORMULA (A DISTANCE BEYOND THE FOOT OF THE SLOPE, OR A THICKNESS OF SEDIMENT TEST). WHILE THERE WAS NO DISCERNIBLE MOVEMENT TOWARD COMPROMISE, THE DEBATE SHOWED CLEARLY THAT A LARGE MAJORITY OF STATES THOUGHT THE IRISH FORMULA TO BE THE MOST ACCEPTABLE SOLUTION.

5. NG-7 CONSIDERED THE QUESTION OF INTERIM ARRANGEMENTS TO BE APPLIED BY OPPOSITE OR ADJACENT STATES PENDING A FINAL RESOLUTION OF MARITIME BOUNDARIES OF MUTUAL CONCERN. THE QUESTION, LIKE THE UNDERLYING SUBSTANTIVE ISSUE ITSELF, IS ESSENTIALLY BILATERAL, AND THIS WAS CLEARLY REFLECTED IN THE DEBATES. ON THE ONE HAND, THOSE STATES PUTTING MORE EMPHASIS ON THE PRINCIPLE OF EQUITY IN SOLVING THESE PROBLEMS THOUGHT THAT INTERIM ARRANGEMENTS SHOULD BE NEGOTIATED, WITH OR WITHOUT A MORATORIUM. ON THE OTHER HAND, STATES PUTTING MORE RELIANCE ON THE MEDIAN OR EQUI-DISTANCE LINE PREFERRED USING THAT LINE AS A BASIS FOR AN INTERIM SOLUTION. THE DISCUSSIONS WILL

CONTINUE AT THE NEXT MEETING, BUT THE VERY NATURE
OF THE PROBLEM MITIGATES AGAINST RAPID PROGRESS.

6. THE GROUP FOCUSED ON A SURVEY OF POSSIBLE
COMPROMISES PREPARED BY AN EXPERT GROUP CHAIRED BY
PROF. SOHN (US). DURING THE DEBATE THOSE STATES
WHICH HAD PREVIOUSLY OPPOSED ALL DISPUTE SETTLEMENT
FOR BOUNDARIES TENDED TO SUPPORT COMPROMISE MODELS
WHICH WOULD EXCEPT PRE-EXISTING DISPUTE. DELEGATIONS
IN FAVOR OF COMPULSORY SETTLEMENT PREFERRED MODELS
EITHER BASED ON THE PRESENT TEXT OR ONES DESCRIBING
A STAGED PROCEDURE IN WHICH DISPUTANTS WOULD GET
PRELIMINARY ADVICE FROM THIRD PARTIES AS AN AID
TO A SECOND ROUND OF NEGOTIATIONS BUT WOULD IN THE
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END BE OBLIGED TO SUBMIT TO BINDING SETTLEMENT IF THEY
COULD NOT AGREE. THE IMPORTANT POINT IS THAT BOTH SIDES

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SHOWED A WILLINGNESS TO EXAMINE THE COMPROMISES IN A
POSITIVE AND CONSTRUCTIVE WAY.

7. DEBATE ON THIS SUBJECT WAS SUSPENDED ON AUGUST 30, PENDING COMPLETION OF A SECRETARIAT STUDY REVIEWING MARITIME BOUNDARY AGREEMENTS AND ARBITRATIONS SINCE 1945. IT WILL BE TAKEN UP AGAIN TOWARD THE END OF NEXT WEEK, AT WHICH TIME THE GROUP WILL HAVE TO MAKE A PROCEDURAL DECISION ON THE NEXT STEPS TO BE TAKEN AS TO THE DISPUTE SETTLEMENT PART OF THE NEGOTIATION.

8. CHAIRMAN AGUILAR CONVENED TWO SESSIONS OF THE SECOND COMMITTEE IN INFORMAL SESSION TO CONTINUE THE REVIEW OF ARTICLES OF IMPORTANCE TO ONE OR MORE STATES, BUT NOT CONSIDERED TO BE OF SUCH A NATURE AS TO REQUIRE SUBMITTING THEM TO NEGOTIATING GROUPS. IN THIS CONNECTION, DISCUSSIONS WERE HELD ON PROPOSALS BY URUGUAY CONCERNING NEW ARTICLES TO FOLLOW ARTICLE 73 OF THE ICNT AND WHICH CONCERNED NAVIGATION IN THE ECONOMIC ZONE. A UNCLASSIFIED

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SOVIET PROPOSAL FOR DELETING THE OPENING ARTICLE (ARTICLE 86) IN THE HIGH SEAS CHAPTER WAS ALSO CONSIDERED. PROGRESS THROUGH THE TEXT WILL CONTINUE AT THE NEXT MEETING WITH ARTICLE 101. IT IS CLEARLY THE CHAIRMAN'S HOPE TO COMPLETE THE EXERCISE DURING THIS FOUR-WEEK PERIOD.

9. THE PROGRAM OF WORK IN COMMITTEE II PERMITS THE POSSIBLE RESOLUTION OF ALL OUTSTANDING ISSUES EXCEPT THE HARD-CORE ONES, AND THIS WOULD CLEAR THE DECKS FOR FINAL NEGOTIATION ON THESE ISSUES.

10. THE HIGHLIGHT OF THE WEEK FOR COMMITTEE III WAS THE PRESENTATION TO THE INFORMAL MEETING OF A LIST OF "CONSENSUS" ARTICLES EMBODIED IN DOCUMENT MP/27. THIS LIST OF POLLUTION ARTICLES HAD BEEN NEGOTIATED IN THE INFORMAL SMALL NEGOTIATING GROUP AND IN THE THIRD COMMITTEE. CHAIRMAN VALLARTA NOW FELT THAT THEY WERE READY FOR PRESENTATION TO THE GROUP AS ONE OF THE FINAL STEPS IN THEIR ADOPTION AS PART OF THE REVISED ICNT. IN BRIEF, THE ARTICLES AND AMENDMENTS:

-- CLARIFY THE DEFINITION OF DUMPING (IN ARTICLE 1 AND ARTICLE 211 (5));

-- OUTLINE COOPERATIVE REGIONAL PORT ENTRY ENFORCEMENT PROVISIONS (ARTICLE 212 (2) BIS);

-- STRENGTHEN COASTAL STATE ENFORCEMENT POWERS FOR POLLUTION VIOLATIONS IN THE ECONOMIC ZONE (ARTICLE 221 (2) (5) (6));

-- REAFFIRM COASTAL STATE INTERVENTION POWERS ON THE
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HIGH SEAS IN THE CASE OF MARITIME CASUALTIES (ARTICLE
222);

-- CLARIFY SAFEGUARDS REGARDING THE INVESTIGATION OF
FOREIGN VESSELS (ARTICLE 227 (1); AND

-- EXPAND COASTAL STATE PENALTIES FOR POLLUTION IN
CASES OF WILLFUL AND SERIOUS ACTS OF POLLUTION
(ARTICLE 321). YOUNG

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